

MONTANA LEGISLATIVE HISTORY

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Chapter 469 19 93

Bill H 236 S _____ Original bill & history ☒ C

H. Committee on Judiciary

Hearing Date(s) Jan 28 ☒ C

Feb 09 ☒ C

_____ C

_____ C

Date Out Feb 10 ☒ C

S. Committee on Judiciary

Hearing Date(s) Mar 24 ☒ C

_____ C

_____ C

_____ C

Mar 24 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

2/05	3RD READING PASSED	96	3
	TRANSMITTED TO SENATE		
2/08	FIRST READING		
2/08	REFERRED TO JUDICIARY		
3/09	HEARING		
3/24	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/27	2ND READING CONCURRED	48	0
3/29	3RD READING CONCURRED	47	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS CONCURRED	94	2
4/02	3RD READING AMENDMENTS CONCURRED	98	1
4/13	SIGNED BY SPEAKER		
4/14	SIGNED BY PRESIDENT		
4/16	TRANSMITTED TO GOVERNOR		
4/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 441		
	EFFECTIVE DATE: 10/01/93		

HB 236

INTRODUCED BY TOOLE, ET AL.

PROVIDE IMMUNITY FOR PROVIDER OF HEALTH CARE INFORMATION
PURSUANT TO WRITTEN RELEASE

1/19	INTRODUCED		
1/19	REFERRED TO JUDICIARY		
1/19	FIRST READING		
1/28	HEARING		
2/11	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/13	2ND READING PASSED	93	5
2/16	3RD READING PASSED	93	6
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO JUDICIARY		
3/24	HEARING		
3/25	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/26	2ND READING CONCURRED	49	0
3/27	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS CONCURRED	95	0
4/02	3RD READING AMENDMENTS CONCURRED	88	10
4/13	SIGNED BY SPEAKER		
4/14	SIGNED BY PRESIDENT		
4/16	TRANSMITTED TO GOVERNOR		
4/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 469		
	EFFECTIVE DATE: 10/01/93		

HB 237

INTRODUCED BY GRADY

CLARIFY TYPES OF ESTABLISHMENTS THAT QUALIFY FOR REDUCED FEE
FOR LICENSURE OF PUBLIC SWIMMING POOL OR BATHING PLACE
BY REQUEST OF DEPARTMENT OF HEALTH AND ENVIRONMENTAL
SCIENCES

1/19	INTRODUCED
1/19	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT
1/19	FIRST READING
1/28	HEARING
2/04	COMMITTEE REPORT—BILL PASSED
2/05	FISCAL NOTE REQUESTED
2/10	FISCAL NOTE RECEIVED

House BILL NO. 236

INTRODUCED BY Bill F. Johnson Whalen

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR IMMUNITY FROM CIVIL SUIT FOR A HEALTH CARE PROVIDER WHO DISCLOSES HEALTH CARE INFORMATION TO A THIRD PARTY PURSUANT TO A WRITTEN AUTHORIZATION FOR DISCLOSURE; AND SPECIFYING THE FORM OF THE WRITTEN AUTHORIZATION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Immunity of health care providers pursuant to written authorization -- form required. A health care provider who discloses health care information within the possession of the provider, including health care information from another provider, is immune from suit by the person to whom the information is disclosed for any civil cause of action based upon the disclosure if the information is disclosed in accordance with a written authorization using the following language:

"All health care information in your possession, whether generated by you or by any other source, may be released to me or to _____ (named person). I hereby waive my right under Title 50, chapter 16, part 5, Montana Code Annotated, to the confidentiality of the information you provide, based upon this express request.

.....
(Signature of patient)"

NEW SECTION. Section 2. Codification instruction.

[Section 1] is intended to be codified as an integral part of Title 50, chapter 16, part 5, and the provisions of Title 50, chapter 16, part 5, apply to [section 1].

-End-

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor: None.

HEARING ON HB 236

Opening Statement by Sponsor:

REP. HOWARD TOOLE, HD 60, Missoula. A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR IMMUNITY FROM CIVIL SUIT FOR A HEALTH CARE PROVIDER WHO DISCLOSES HEALTH CARE INFORMATION TO A THIRD PARTY PURSUANT TO A WRITTEN AUTHORIZATION FOR DISCLOSURE; AND SPECIFYING THE FORM OF THE WRITTEN AUTHORIZATION."

REP. TOOLE stated the purpose of this bill is to release medical care records from providers by request from patients via waiver. It protects doctors. Under the law of release of medical information, physicians and care providers feel they should not release medical information. Sometimes it is difficult for the insurance companies to get the files. This bill does not, however, require that a care provider must release information. Lines 20-25 of the bill includes the specific language of release.

Proponents' Testimony:

Tom Hopgood, Insurance Association of America, Helena, explained insurance companies have concerns about getting medical records. Mr. Hopgood suggested the committee insert a confidentiality clause on line 13, and add "health care provider" or "health insurer" or "health service counselor."

Greg Van Horssen, State Farm Insurance Company, said State Farm supports HB 236 as drafted but asked the committee to consider the proposed amendment. They believe in expedient exchange of information.

Dayna Shepherd, Attorney, Department of Health and Environmental Sciences, spoke in support of the bill but would like the committee to consider amendments to the bill because of the Uniform Information Compliance Act. The waiver conflict amendment can be amended to comply with the waiver that exists.

Steve Brown, Blue Cross and Blue Shield, declared he understands that medical providers may have concerns about technical aspects of the bill and BCBS offers their assistance in resolving those concerns. They will offer assistance in processing paperwork and will work with the medical community in releasing information.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. TIM SAYLES asked REP. TOOLE if the health care providers, on passage of this bill, will give information required by law to the emergency medical personnel when they so desire? REP. TOOLE replied this bill will only authorize release of records to the person injured and only after the paperwork is signed by the patient. REP. SAYLES said he thinks the health care providers may be feeling at risk, and asked if this bill will ease their confidence in the health care provider. REP. TOOLE said that there will be concerns over privacy or protection issues, but this is not intended to hide medical evidence. It is a tool to provide information to the person or patient requesting confidential information.

REP. RANDY VOGEL asked Mr. Hopgood what was the wording on the proposed amendment and where was it inserted? Mr. Hopgood said it would be on page 1, line 13, after: "required. A health care provider insert: or health insurers or health service corporation".

REP. LIZ SMITH asked for clarification from REP. TOOLE that this bill is only to relieve authorized health providers from civil suit. Medical information is released only after the patient signs a waiver from the health care provider to release all medical information, and to ensure that the health care provider will not be sued.

REP. ANGELA RUSSELL asked REP. TOOLE, what kind of protection would a consumer get from routine or specialized care? Are there provisions or rules that inform consumers that this is an authorization from consumers to release information? Is it a one-time request on behalf of the patient when they need of all records?

Closing by Sponsor:

REP. TOOLE said this is a concept that is intended to address serious, practical problems in handling insurance claims.

EXECUTIVE ACTION ON HB 215

Motion: REP. VIVIAN BROOKE MOVED HB 215 DO PASS.

Discussion:

REP. BROOKE outlined her opinion why HB 215 should pass. She said her number one priority in the legislature was to remove this barrier. She said HB 215 is a simple bill to repeal, and it has no place in the codes. HIV is increasing all the time; there

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

1-28-93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell	✓		
Rep. Tim Savles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow	✓		
Rep. Diana Wyatt	✓		

HR:1993

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CS-09

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Judiciary

COMMITTEE

BILL NO.

HB 236

DATE Jan. 28, 1993 SPONSOR(S)

St. Toole

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Judith Gedrose	DNES		
Ron Ashabani	State Farm Ins	✓	
Tam Hogood	HIAA	✓	
Greg Van Horssen	State Farm Ins	✓	
Steve Brown	Blue Cross-Blue Shield	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

EXECUTIVE ACTION ON HB 357

Motion: REP. BROWN MOVED HB 357 DO PASS.

Motion: REP. BROWN moved two amendments. Line 15, after the word "an" and before "airport", insert: "aircraft"; and on line 17, after "airport," insert: "or agent of the airport." The purpose of this bill is to help operators in small airports.

Vote: REP. BROWN's amendment. The amendment carried unanimously 18-0.

Vote: HB 357 DO PASS AS AMENDED. Motion carried unanimously 18-0.

EXECUTIVE ACTION ON HB 94

Motion: REP. BROWN MOVED HB 94 DO PASS.

Discussion:

REP. BROWN distributed a gray bill replacement for the bill. EXHIBIT 6 Everything in the original bill is printed in the gray bill. A gray bill is a vehicle that allows putting all the amendments in the bill so that it can be read the way it would look after extensive amendments are made. He then read the bill through.

Vote: HB 94 "GRAY BILL" DO PASS. Motion carried 17-1. REP. TASH abstained from voting.

EXECUTIVE ACTION ON HB 236

Motion: REP. TOOLE MOVED HB 236 DO PASS.

Discussion:

Motion/Vote: REP. TOOLE proposed amendments. See Standing Committee Report. The motion carried 17-1 with REP. SMITH voting no.

Vote: HB 236 DO PASS AS AMENDED. Motion carried 17-1 with REP. SMITH voting no.

EXECUTIVE ACTION ON HB 405

Motion: REP. WHALEN MOVED HB 405 DO PASS.

Discussion:

Motion/Vote: CHAIRMAN FAGG moved Mr. MacMaster's proposed

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

2-9-93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		✓
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell			✓
Rep. Tim Savles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karvl Winslow	✓		
Rep. Diana Wyatt	✓		

HR:1993

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CS-09

HOUSE STANDING COMMITTEE REPORT

February 10, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 236 (first reading copy -- white) do pass as amended .

Signed: _____
Russ Fagg, Chair

And, that such amendments read:

1. Title, line 6.

Strike: "THIRD PARTY"

Insert: "PATIENT OR THE PATIENT'S DESIGNEE"

2. Page 1, lines 16 and 17.

Strike: "suit by the person to whom the information is disclosed
for"

3. Page 1, line 17.

Strike: "based upon the disclosure"

Insert: "by the patient or the patient's heirs or successors in
interest that is based upon delivery to the patient or the
patient's designee of health care information concerning the
patient that is contained in the health care provider's
patient file"

4. Page 1, lines 22 through 25.

Strike: ". I hereby" on line 22 through end of line 25

Insert: "for _____ (purpose of the disclosure). This
release is subject to revocation at any time except to the
extent that the released health care provider has already
acted in reliance on the release. If not revoked, the
release terminates in accordance with 50-16-527."

-END-

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 2-9-93 BILL NO. HB 236 NUMBER 18

MOTION: Motion to pass HB 236 carried 17-1

NAME	AYE	NO
Rep. Russ Fagg, Chairman	✓	
Rep. Randy Vogel, Vice-Chair	✓	
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird	✓	
Rep. Ellen Bergman	✓	
Rep. Vivian Brooke	✓	
Rep. Bob Clark	✓	
Rep. Duane Grimes	✓	
Rep. Scott McCulloch	✓	
Rep. Jim Rice	✓	
Rep. Angela Russell	✓	
Rep. Tim Sayles	✓	
Rep. Liz Smith		✓
Rep. Bill Tash	✓	
Rep. Howard Toole	✓	
Rep. Tim Whalen	✓	
Rep. Karyl Winslow	✓	
Rep. Diana Wyatt	✓	
	17	1

Closing by Sponsor:

Representative Benedict waived his closing.

EXECUTIVE ACTION ON HB 574

Motion/Vote:

Senator Blaylock moved HB 574 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

HEARING ON HB 236

Opening Statement by Sponsor:

Representative Howard Toole, House District 60, stated HB 236 deals with a problem people have in obtaining copies of medical records. Representative Toole stated the doctors feel the statutes limit the distribution of a person's own medical records. Representative Toole said HB 236 says that any medical care provider who receives a request from the patient for medical records is protected against lawsuits by the patient. Representative Toole stated the purpose of this is to facilitate the acquisition of medical records for a patient when the patient signs a release form which releases the patient's records either through the patient, the patient's attorney, or the patient's insurer who is attempting to evaluate a claim.

Proponents' Testimony:

Jerry Loendorf, representing the Montana Medical Association, stated he supported HB 236.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Grosfield asked Representative Toole if the immunity referred to applies only to getting the records from the doctor. Representative Toole stated the intent of HB 236 is to allow the doctor to copy all contents of the patient's file not to grant immunity to some issue relative to medical malpractice.

Closing by Sponsor:

Representative Toole respectfully closed on HB 236.

EXECUTIVE ACTION ON HB 236

Motion:

Senator Blaylock moved HB 236 BE CONCURRED IN.

Motion/Vote:

Senator Towe moved an amendment HB 236 to strike everything after the word "time" on line 7 through the end of that sentence and adding "The revocation is effective form the time it is communicated to the health care provider." The motion CARRIED with Senator Rye voting NO.

Motion/Vote:

Senator Blaylock moved HB 236 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 191

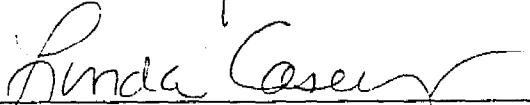
Motion/Vote:

Senator Blaylock moved HB 191 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 12:00 p.m.


SENATOR BILL YELLOWTAIL, Chair


KATHY COLLINS, Secretary

BP/kc

ROLL CALL

SENATE COMMITTEE Judiciary DATE 3-24-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	✓		
Senator Doherty	✓		
Senator Brown	✓		
Senator Crippen	✓		
Senator Grosfield	✓		
Senator Halligan	✓		
Senator Harp	✓		
Senator Towe	✓		
Senator Bartlett	✓		
Senator Franklin	✓		
Senator Blaylock	✓		
Senator Rye	✓		

F08

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 24, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 236 (first reading copy -- blue), respectfully report that House Bill No. 236 be amended as follows and as so amended be concurred in.

Signed: Wm. Yellowtail
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Page 2, lines 7 through 9.

Following: "TIME" on line 7

Strike: remainder of line 7 through the first "RELEASE" on line 9

2. Page 2, line 9.

Following: "."

Insert: "The revocation is effective from the time it is
communicated to the health care provider."

-END-

APC
DS Amd. Coord.
Sec. of Senate

Halligan
Senator Carrying Bill

661648SC.San